

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MONADNOCK CONSTRUCTION, INC.,

Case No.: 16 CIV. 00420 (JBW)
ECF Case

Plaintiff,

-against-

WESTCHESTER FIRE INSURANCE
COMPANY,

Defendant.

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WESTCHESTER FIRE INSURANCE
COMPANY,

Third-Party Plaintiff,

-against-

GLASSWALL, LLC, UGO COLOMBO, and
SARA JAYNE KENNEDY COLOMBO

Third-Party Defendants.

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**DECLARATION OF JOHN J. SULLIVAN IN SUPPORT
OF WESTCHESTER'S OPPOSITION TO GLASSWALL'S
MOTION FOR THE RETURN OF THE LETTER OF CREDIT**

John J. Sullivan, Esq., pursuant to the provisions of 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney for Third-Party Plaintiff, Westchester Fire Insurance Company ("Westchester"), in this Action. I am familiar with the facts and circumstances of this dispute.
2. I submit this Declaration in support of Westchester's Opposition to Glasswall's Motion for the Release of the Letter of Credit.

3. A true and correct copy of the Indemnity Agreement executed by Third-Party Defendants Glasswall, LLC (“**Glasswall**”), Ugo Colombo and Sara Jayne Kennedy Colombo, as Indemnitors, in favor of Westchester on February 1, 2013 is annexed hereto as “Exhibit 1.”

4. A true and correct copy of Irrevocable Letter of Credit No. TFTS-319325, dated April 22, 2013, is annexed hereto as “Exhibit 2.”

5. At the time of this Declaration, Westchester has incurred legal fees, costs and disbursements in an amount of approximately \$1 million by reason of executing the bonds (“**Bonds**”) in this Acton and other actions and continues to incur additional such legal fees, costs and disbursements.

6. Glasswall sold its assets to Tecnoglass, a Colombia-based company, in 2015, and as such is no longer an operational entity. This transaction was announced by Tecnoglass in an August 14, 2015 press release, a copy of which is annexed hereto as “Exhibit 3.”

7. In 2014, Westchester, for the purpose of incentivizing Glasswall to perform the construction-related contracts underlying the Bonds, paid Glasswall approximately \$1.5 million from its own funds.

8. A true and correct copy of the Amended Complaint for Declaratory Relief filed by Third-Party Defendant Sara Jayne Kennedy Colombo in Florida Case No. 14-02090-ca-24 is annexed hereto as “Exhibit 4.”

9. A true and correct copy of the Complaint filed by Third-Party Defendant Ugo Colombo in Florida Case No. 15-5447-ca-40 is annexed hereto as “Exhibit 5.”

10. A true and correct copy of the Amended Answer, Affirmative Defenses, and Cross-Claims filed by Third-Party Defendant Glasswall in Florida Case No. 15-06405-ca-20 is annexed hereto as “Exhibit 6.”

11. True and correct copies of the Florida Court's Order granting Westchester's Motion to Dismiss Based on Mandatory Forum Selection Clause and the Transcript of the April 30, 2018 hearing on that Motion are annexed hereto as "Exhibit 7."

12. Westchester has not received a release of all potential claims related to the Bonds from Monadnock Construction, Inc. ("**Monadnock**") or any entities or individuals related to or affiliated with Monadnock.

13. Westchester has not received a release of all potential claims related to the Bonds from Glasswall or any of the Third-Party Defendants in this Action.

Dated: New York, New York
February 12, 2019

By: /s/ John J. Sullivan
John J. Sullivan, Esq.